

15CV016069

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE
 WAKE COUNTY SUPERIOR COURT DIVISION
 FILE NO.: 15 CVS

2015 DEC - 1 A 11: 23
 THE NORTH CAROLINA STATE BAR,

Petitioner

v.

BY

WAKE COUNTY, C.S.C.
 3
 CONSENT ORDER OF
 PRELIMINARY INJUNCTION

LENNARD D. TUCKER, Attorney,

Respondent

THIS MATTER came on for consideration by the undersigned Judge on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Jennifer A. Porter. Respondent, Lennard D. Tucker, appeared *pro se*. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code). The State Bar brings this action pursuant to N.C. Gen. Stat. § 84-28(f).

2. Respondent, Lennard D. Tucker ("Tucker"), was licensed to practice law in North Carolina in 1990.

3. The State Bar's membership database shows the following address for Tucker: 8 West 3rd Street, Suite 570, Winston-Salem, NC 27101.

4. The State Bar has received information indicating Tucker mishandled entrusted funds.

5. Tucker desires to cooperate with the North Carolina State Bar.

6. A need for prompt action exists to ensure that further entrusted funds are not mishandled in the future.

7. Tucker stipulates to the Wake County Superior Court's jurisdiction over his person, acknowledges the Court's subject matter jurisdiction pursuant to N.C. Gen.

Stat. § 84-28(f), and waives any right to challenge or appeal this order on jurisdictional grounds.

BASED UPON THE FOREGOING FINDINGS, and with the consent of the parties, the Court makes the following:

CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Respondent and jurisdiction over the subject matter. This matter is properly before the Wake County Superior Court pursuant to N.C. Gen. Stat. § 84-28(f).

2. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Tucker's trust accounts and any other accounts into which client or fiduciary funds have been deposited, including, if applicable, operating and personal bank accounts, and to ensure that no further client funds are mishandled.

3. Tucker should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from writing checks against or withdrawing funds from any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to write a check against or withdraw funds from any account in which client or fiduciary funds have been deposited, until and unless expressly permitted by subsequent orders of the Court.

4. To assist the State Bar's analysis of his accounts, Tucker should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited and with all client files requested by the State Bar as set forth below.

5. To assist the State Bar's analysis of his trust accounts, Tucker should provide the State Bar with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

6. Tucker should be prohibited from serving as a trustee, escrow agent, settlement agent, attorney-in-fact, executor, personal representative or in any other fiduciary capacity.

THEREFORE, IT IS HEREBY ORDERED:

1. Lennard D. Tucker is enjoined from receiving any funds from or on behalf of clients or other individuals in a fiduciary capacity; writing checks against or otherwise disbursing or withdrawing funds from any account in which client or fiduciary funds have been deposited; and/or directing or permitting any employee or agent to draw a check on or otherwise disburse or withdraw funds from any account in which client or fiduciary funds have been deposited, until permitted by subsequent order of the Court.

2. Tucker, or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited, shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying all financial records relating to any account into which client or fiduciary funds have been deposited, such accounts to include his firm's operating account(s) if applicable and such records to include but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs, deposited items, debit memos, credit card transaction information, and any other records relating to the receipt and disbursement of client and/or fiduciary funds, as requested by the State Bar.

3. Tucker, or any other person having custody or control over records relating to individuals for whom Tucker has provided legal services, shall produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying any or all client files needed by the State Bar for its audit. "Client files" shall include all records and documents relating to individuals or entities for whom Tucker has provided legal services, including but not limited to settlement statements, HUD-1 Settlement Statements, billing statements, accountings, fee agreements, correspondence, litigation documents, memoranda and receipts. Current client files shall be produced at the State Bar offices in Raleigh, North Carolina within 24 hours of request by the State Bar and closed client files shall be produced at the State Bar offices in Raleigh, North Carolina within 3 days of request by the State Bar.

4. If Tucker does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct, he shall direct the bank(s) where his trust and operating bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at its Raleigh, North Carolina location, at Tucker's expense.

5. Tucker shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location the monthly and quarterly reconciliation reports for any and all trust accounts that he is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct. If Tucker has not prepared such reports as required, Tucker is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.

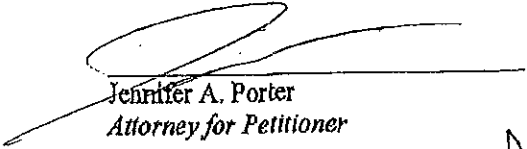
6. Tucker is hereby enjoined from serving as an attorney-in-fact, escrow agent, settlement agent, trustee, executor, personal representative or in any other fiduciary capacity.

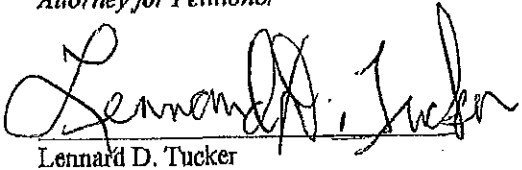
7. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

THIS the ^{17th} ~~15th~~ day of ^{P66} ~~December~~, 2015.


Superior Court Judge Presiding

CONSENT TO BY:


Jennifer A. Porter
Attorney for Petitioner


Lennard D. Tucker
Respondent